

FACT SHEET

Hearing Loss and Discrimination: Your Rights Under the New Jersey Law Against Discrimination (LAD)

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What Does NJ Law Say about Discrimination due to Hearing Loss?

Under the New Jersey law Against Discrimination (LAD), If you are treated differently or harassed because of your hearing loss, you have the legal right to do something about it.

You may not:

- Be denied a job or promotion because of your hearing loss
- Be treated differently or harassed because of your hearing loss
- Be denied a reasonable accommodation

*There are some exceptions to the state's
Disability discrimination law.
They are explained in this fact sheet.*

The New Jersey Law Against Discrimination (LAD) makes it unlawful for the owner, operator or employee of a place of public accommodation to discriminate against people with disabilities. N.J.S.A. 10:5-1 to 49.

What Does This Mean To You?

- This means that places open to the public may not treat a person with a disability less favorably than others, such as refusing to admit a student to a school or after school program because he or she cannot hear.
- Additionally, the LAD also requires places of accommodation to take reasonable steps to make sure that a person with a hearing loss can enjoy the goods, services and facilities that are available to everyone else.

This Means:

Access to public accommodations are **Required**, however, the accommodation only has to be **Reasonable**.

- **Reasonable** means that if the providing the particular accommodation causes the provider **undue hardship**, then it is not reasonable under the law.
- **Undue hardship** typically means very costly to buy, operate or maintain, or if it changes the nature of business.

Who does LAD protect?

- The LAD covers more people than the federal ADA. The ADA protects people with a permanent or long-term disability, which substantially limits one or more major life activities. Hearing Loss is protected as a disability under the state's LAD.

But the LAD does more...

- While NJ's LAD also protects people who presently have a disability, it also protects those who have had a disability in the past, and people who are expected to develop a disability in the future, and those who are perceived to have a disability. So, if someone does not have a certain disability but they are subjected to discrimination by people who mistakenly believe that they do have a disability, the LAD protects them also.

Public Accommodation under LAD:

- The LAD applies to individuals and entities that offer goods, services, State services or facilities to the general public, schools, movie theatres, camps, child care facilities, doctors' and lawyers' offices.

Exceptions to the LAD:

- The LAD does not apply to the terms or conditions of a pension plan, insurance, or other employee benefits program.
- Nor does the LAD apply to educational facilities operated or maintained by bona fide religious or sectarian institutions. However, a child care or after school program that accepts state or federal funding is required to comply with anti-discrimination laws even if the program is operated or maintained by a bona fide religious or sectarian institution.
- The LAD does not apply to private clubs where membership is not open to the general public.
- The LAD does not apply to places of public accommodation, which limits access based on gender.

Are Hearing Aids considered as Assistive Technology Device that must be provided by the school?

- There is no clear answer to this question under state law. Hearing aids are most definitely an assistive technology device. However, the question remains: whose responsibility is it to supply the device since the student needs it for more than school purposes. The federal government issued a policy letter, which says that a school must supply hearing aids as an assistive technology device if it is in the IEP and is necessary for a child to receive a FAPE. New Jersey has not challenged that position, however, school districts have answered the question on a case by case basis.

Examples of reasonable accommodation under the LAD

- FM system, eye-communication speech recognition software, CART (Computerized Assistive Real Time captioning) services, C-print (speech to text software) and interpreters.

What Can I Do?

If you believe that you have been the victim of unlawful discrimination, please visit or phone us at the Division on Civil Rights office closest to where you live or where you think the discrimination occurred. Our addresses and phone numbers are at the end of this fact sheet. Our services are free.

When you come to us, an initial evaluation will determine if your claim is covered under the law. If it is, the Division will then conduct an investigation into your allegations. If the investigation shows enough evidence to support your

complaint, and your complaint cannot be settled, a hearing will be held in the Office of Administrative Law.

The Division is only able to investigate your complaint if it is filed within **180 days** of the last act of alleged discrimination.

You may also have the right to file a lawsuit in state court, with or without the assistance of an attorney, and try your case in the New Jersey Superior Court. A Superior Court action must be filed within **two years** from the act of discrimination.

It is against the law for anyone to retaliate against you because you have complained to us.

For more information, contact the office nearest your work or home or visit us at our Web site at **www.NJCivilRights.org**.

Contact Information

Atlantic City Office:

26 Pennsylvania Avenue, 3rd Floor
Atlantic City, NJ 08401

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| (609) 441-3100 | (Phone) |
| (609) 441-3578 | (Fax) |
| (609) 441-7648 | (TTY) |

Camden Office:

One Port Center
2 Riverside Drive, Suite 402, 4th Floor
Camden, NJ 08103

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| (856) 614-2550 | (Phone) |
| (856) 614-2568 | (Fax) |
| (856) 614-2574 | (TTY) |

Newark Office:

31 Clinton Street, 3rd Floor / P.O. Box 46001
Newark, NJ 07102

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| (973) 648-2700 | (Phone) |
| (973) 648-4405 | (Fax) |
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Paterson Office:

100 Hamilton Plaza, 8th Floor
Paterson, NJ 07501

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| (973) 977-4500 | (Phone) |
| (973) 977-4511 | (Fax) |
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Trenton Office:

140 East Front Street, 6th Floor / P.O. Box 090
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